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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/511,256	02/23/2000	Robert Lawrence Gallick	PH 00-09	4237

7590 01/30/2004

Fay Sharpe Fagan Minnich & McKee LLP  
1100 Superior Avenue  
Seventh Floor  
Cleveland, OH 44114-2518

EXAMINER
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HOM. SHICK C

ART UNIT	PAPER NUMBER
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2666

DATE MAILED: 01/30/2004

10

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/511,256

Applicant(s)

GALLICK ET AL.

Examiner

Shick C Hom

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 9/10/03 and rce of 11/17/03.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 3-17 is/are pending in the application.
- 4a) Of the above claim(s) 4-8, 10 and 11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 3, 9 and 12-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 April 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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### DETAILED ACTION

#### *Response to Arguments*

1. Applicant's arguments with respect to claims 3, 9, and 12-17 have been considered but are moot in view of the new ground(s) of rejection.

#### *Drawings*

2. The drawings were received on 4/21/03. These drawings are accepted by the Examiner.

#### *Claim Objections*

3. Claims 3, 9, 12-17 are objected to because of the following informalities: in claim 3 line 6 delete typo "administerable" and insert ---administrable---. Appropriate correction is required.

#### *Claim Rejections - 35 USC § 112*

4. Claims 12-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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In claim 12 line 2 which recite "said means for displaying" lacks clear antecedent basis because no means for displaying have been previously recited in the claims and therefore the limitation is not clearly understood.

Claims 13-17 are rejected under 35 U.S.C. 112, second paragraph because they depend from rejected claim 12.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in

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order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brisebois et al. (6,310,944) in view of McCalmont (6,215,865).

Regarding claim 3:

Brisebois et al. disclose the packet switched call center communications system for delivering voice over internet Protocol telephone calls to any of a plurality of attendant positions serving a subscriber (col. 2 line 55 to col. 3 line 19), comprising: feature server means operable incident to an incoming call arriving to said subscriber for submitting a respective subscriber-defined questionnaire to a caller (col. 6 line 56 to col. 7 line 65), said feature server processing a questionnaire returned by said caller including indexing the questionnaire according to the directory number of said caller to ascertain the nature or purpose of said call (col. 3 lines 20-48 and col. 4 lines 23-61); and said feature server being responsive to said processing of said questionnaire including the priority of each incoming call (col. 5 lines 13-20).

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Brisebois et al. disclose all the subject matter of the claimed invention with the exception of said means including a data base administerable by said subscriber, said means permitting formulation of said questionnaire and access to said data base by any of said attendant positions and said feature server being responsive to said processing of said questionnaire for displaying to said attendant positions a queue of calls incoming to said subscriber, said display including the nature or purpose and priority of each incoming call as in claim 3.

McCalmont from the same or similar fields of endeavor teach that it is known to provide means including a data base administerable by said subscriber, said means permitting formulation of said questionnaire and access to said data base by any of said attendant positions (col. 4 line 16 to col. 6 line 16) and said feature server being responsive to said processing of said questionnaire for displaying to said attendant positions a queue of calls incoming to said subscriber, said display including the nature or purpose and priority of each incoming call (col. 6 line 17-26 and col. 7 lines 19-55). Thus, it would have been obvious to the person having ordinary skill in the art at the time the invention was made to provide the data base administerable by said subscriber, said means permitting formulation of said questionnaire and access to said data base by any of said attendant positions and

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said feature server being responsive to said processing of said questionnaire for displaying to said attendant positions a queue of calls incoming to said subscriber, said display including the nature or purpose and priority of each incoming call as taught by McCalmont in the system of Brisebois et al. The data base and display can be implemented by providing the database in the server and connecting a display to the server of Brisebois et al. The motivation for using the database and the display as taught by McCalmont in the system of Brisebois et al. being that it provides more efficiency for interfacing with customer since the questionnaires are in the database and status information can be viewed.

#### ***Allowable Subject Matter***

8. Claims 9 and 12-17 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Sashihara disclose a queuing status reporting apparatus.

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Itabashi et al. disclose an information processing apparatus,  
information processing method and transmitting medium.

10. Any response to this nonfinal action should be mailed to:

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

or faxed to:

(703) 872-9314, (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal  
Park II, 2121 Crystal Drive, Arlington. VA., Sixth  
Floor (2600 Receptionist at (703) 305-4750).

Any inquiry concerning this communication or earlier  
communications from the examiner should be directed to Shick Hom  
whose telephone number is (703) 305-4742. The examiner's  
regular work schedule is Monday to Friday from 8:00 am to 5:30  
pm EST and out of office on alternate Friday.

If attempts to reach the examiner by telephone are  
unsuccessful, the examiner's supervisor, Seema Rao, can be  
reached at (703) 308-5463.

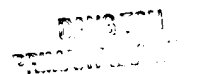


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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

A handwritten signature in black ink, appearing to be 'DMS'.A faint, rectangular stamp with illegible text, possibly a date or office mark.

SH

January 25, 2004